

**UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA
(Philadelphia)**

IN RE:

Shahidul Gaffar

Debtor

CHAPTER 13

CASE NO.: 23-12151-mdc

HEARING DATE: 01/02/2024

TIME: 10:30 a.m.

LOCATION: COURTROOM #2

**MOTION OF WILMINGTON SAVINGS FUND SOCIETY, FSB, NOT IN ITS
INDIVIDUAL CAPACITY BUT SOLELY AS TRUSTEE OF RELIANT TRUST, SERIES
PENTEX, FOR RELIEF FROM THE AUTOMATIC STAY PROVISIONS OF 11 U.S.C. §
362(A) AND CO-DEBTOR STAY PROVISION OF 11 U.S.C. § 1301 TO PERMIT
MOVANT TO COMMENCE OR CONTINUE FORECLOSURE PROCEEDINGS ON
212 N. SPRINGFIELD ROAD, CLIFTON HEIGHTS, PA 19018**

AND NOW COMES, Wilmington Savings Fund Society, FSB, not in its individual capacity but solely as Trustee of Reliant Trust, Series Pentex (“Movant”), by and through its attorneys, Hill Wallack LLP, and respectfully represents as follows:

1. This Motion (the “Motion”) is filed by Movant for relief from the automatic stay provisions of 11 U.S.C. §362(a) and co-debtor stay provision of 11 U.S.C. §1301 to permit Movant to continue its foreclosure on real property located at 212 N. Springfield Road, Clifton Heights, PA 19018 (the “Mortgaged Premises”).

2. On or about March 5, 2004, Abdul Gaffar and Shahidul Gaffar (“Borrowers”) executed and delivered to America’s Wholesale Lender a Promissory Note (“Promissory Note”) in the principal amount of \$131,200.00. A true and correct copy of the Promissory Note is attached hereto and made a part hereof as Exhibit “A.”

3. To secure the obligations under the Promissory Note, Borrower granted Mortgage Electronic Registration Systems, Inc. as nominee for America’s Wholesale Lender a valid, enforceable, and recorded first lien and mortgage (the “Mortgage”) on the Mortgaged Premises, all of the terms of which are incorporated herein by reference as if fully set forth at length, which Mortgage was thereafter recorded in the Delaware County Recorder of Deeds Office on March

23, 2004 in Book 3121 at Page 413. A true and correct copy of the Mortgage is attached hereto and made a part hereof as Exhibit “B.”

4. Movant is the current mortgagee by virtue of an Assignment of Mortgage. A true and correct copy of the full recorded Assignment of Mortgage Chain is attached hereto and made apart hereof as Exhibit “C.”

5. Borrower entered into a loan modification with the Nationstar Mortgage LLC on or about June 18, 2015. A true and correct copy of the loan modification agreement is attached hereto and made apart hereof as Exhibit “D”.

6. On July 20, 2023, Debtor filed petition for relief under Chapter 13 of the United States Bankruptcy Code.

7. The Debtor in their Schedules filed September 1, 2023 states that the current value of the Mortgaged Premises is \$297,000.00, after consideration of cost of sale.

8. Proof of Claim was filed by Movant on September 22, 2023 as Claim #1-1. The Proof of Claim is in the amount of \$205,090.92 with pre-petition arrears due in the amount of \$91,304.73 together with additional legal fees and costs and taxes due and payable on the Mortgaged Premises.

9. The current monthly payment on the Mortgage is \$1,216.04.

10. On or about September 1, 2023, Debtor filed the Chapter 13 Plan. The plan proposed for Debtors to pay post- petition payments directly to Movant.

11. The Debtors are currently in arrears post-petition for their failure to pay the post-petition payments due August 1, 2023 through November 1, 2023, in the amount of \$4,864.16 (\$1,216.04 x 4 months) less a suspense balance in the amount of \$0.00, for a total amount due of \$4,864.16.

WHEREFORE, Wilmington Savings Fund Society, FSB, not in its individual capacity but solely as Trustee of Reliant Trust, Series Pentex, respectfully requests that this Court enter an Order granting relief from the automatic stay provisions of 11 U.S.C. § 362(a) and co-debtor stay

provision of 11 U.S.C. § 1301 to allow Movant to proceed in its foreclosure of the Mortgaged Premises, to name the Debtors in the foreclosure suit solely for the purpose of foreclosing their interests in the Mortgaged Premises, and to allow Movant, or any other purchaser at the Sheriff's Sale, to take any legal action necessary to gain possession of the Mortgaged Premises.

Respectfully submitted,

By: /s/ Angela C. Pattison

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